

Fiscal Service, Treasury

§ 391.4

be drawn between an adjustment and a waiver. An adjustment is an account correction under any circumstances where the Bureau records a claim or accrues late charges to which it is not legally entitled. An adjustment may be made without the promulgation of regulations. A waiver applies whenever the Bureau accrues late charges it is entitled to assess and later relinquishes that right. Two examples of an adjustment are: (a) Where the underlying claim is without merit, and (b) where the debtor is not notified of the claim as required by 31 U.S.C. 3717. The latter includes being misinformed as to the amount of the charges or the time of their commencement.

§ 391.1 General.

(a) *Waiver of late charges.* Late charges may be waived:

(1) When the underlying claim is compromised in accordance with 4 CFR part 103;

(2) Where the underlying claim is not compromised but it is appropriate to waive late charges under the criteria of 4 CFR part 103 relating to enforcement policy;

(3) When collection of the underlying claim is terminated in accordance with 4 CFR part 104;

(4) When a claim is suspended in accordance with 4 CFR part 104.

(5) Where the cost of collecting the unpaid late charges would approach or exceed the amount of unpaid late charges to be collected and the amount of late charges does not qualify for referral to a collection agency or the Department of Justice;

(6) Where the late charges pertain to claims involving savings bonds and notes arising under 31 U.S.C. 3105 and 3106 which are replaced pursuant to 31 U.S.C. 3126;

(7) For reasons of equity or good conscience as provided in § 391.2.

(b) *Partial waiver.* Late charges may be waived in full or in part.

§ 391.2 Equitable considerations.

For reasons of equity and good conscience, late charges may be waived under the circumstances identified in this section.

(a) Where, without fault or bad faith, the debtor could not submit payment

within 30 days of the interest accrual date, the mandatory waiver provision in 4 CFR 102.13(g) may be extended. Such waiver will be considered on a case-by-case basis. Examples include, but are not limited to:

(1) Postal service delays in forwarding the notice of indebtedness to a new address; and

(2) Late receipt of the notice of indebtedness where the debtor was away from home on an extended vacation or hospitalized.

(b) Where an installment plan is contemplated and the amount of the late charges in relation to the amount of reasonably affordable installment payments is so large that the debt may never be paid, late charges may be waived.

§ 391.3 Resolution of disputes.

(a) To avoid the accrual of additional late charges during the resolution of a dispute, a debtor has the option of paying the amount of the claim and filing a request for a refund together with a request for review of the claim.

(b) Where the claim is a result of the Bureau's administrative error, late charges accruing during the review period may be waived unless the Bureau's actions would have placed a reasonable person on notice that the Bureau erred and that the person should inquire further.

(c) Where the claim is a result of the debtor's error or negligence and the administrative review is unreasonably protracted, late charges accruing during the protracted portion of the review period may be waived.

(d) The period for administrative review begins on the date the request for review is received and ends 10 days after the final determination is mailed to the debtor. This paragraph shall not apply if the request for review is made in bad faith or for purposes of delay.

§ 391.4 Documentary evidence.

(a) When late charges are waived, the debtor's administrative file shall be properly documented with a memorandum. The memorandum shall contain a brief narrative statement describing the circumstances leading to the waiver and the reason(s) for granting the waiver.